

Docket No. 12010-0056



IFW

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: )

Haruo KAWASHIMA et al. )

Serial No.: 10/787,163 )

Examiner: Tompkins, A.

Filed: February 27, 2004 )

Art Unit: 3765

For: SWIMMING GOGGLES )

**REQUEST FOR RECONSIDERATION**

Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action of February 14, 2007, Applicants request reconsideration of the rejection.

In review, two issues are outstanding in this application. One is a prior art rejection based primarily on United States Patent No. 7,165,837 to Yokota et al. (Yokota), and the other one is the restriction requirement.

Addressing the first issue, the rejection of claim 1 under 35 U.S.C. § 102(b) based on Yokota is improper since this patent is not prior art against the application. The instant application has an effective filing date of February 27, 2004. Yokota has an effective filing date of May 21, 2004, which is the date of the published PCT application and is after the effective filing date of the instant application. Yokota cannot rely on the PCT filing date since the PCT application was not published in English, see 35 U.S.C. § 102(e).